

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ANGELO LOMANTO,

Petitioner,

- v -

ANTHONIA ADUKE AGBELUSI,

Respondent.

No. 22-CV-07349 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

This Court issued its final decision in this case on June 22, 2023. (ECF No. 253.)

Respondent filed a notice of appeal, and that appeal is now pending before the United States Court of Appeals for the Second Circuit.

On August 7, 2023, the Second Circuit issued an order which, among other things, denied without prejudice Petitioner's request for certain injunctive relief pending appeal, ruling that "[t]he requests for injunctive relief should be made first in the district court." (ECF No. 260.)

On August 16, 2023, Petitioner filed a letter motion with this Court seeking "Continuation of Interim Relief previously granted and Request for a Modified Access Order." (ECF No. 261.) Respondent filed her opposition on August 28, 2023. (ECF No. 264.) The Court held a telephone conference on the motion on September 22, 2023, at which the parties' counsel and the appointed attorneys for the minor children ("AFCs") appeared and were heard.

Under 22 U.S.C. § 9004(a), "any court exercising jurisdiction of an action brought under section 9003(b) of this title may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition." Pursuant to this provision,

Petitioner seeks an order (1) requiring access to the minor children R.A.L. and S.M.L. (the “Children”) by video calling three times per week, (2) requiring Respondent to provide the Children’s cell phone numbers and email addresses to Petitioner, (3) forbidding the removal of the Children from this District (subject to certain exceptions), and (4) limiting contact between the Children and Respondent’s husband, pending the appeal.

As an initial matter, the Court notes that it did not previously order a visitation schedule, except for the period during which Petitioner was present in New York for trial (*see* ECF No. 200). However, the parties voluntarily adhered to a remote visitation schedule of Zoom calls between the Children and Petitioner during the pendency of the case before this Court, consisting of Zoom calls on Wednesday evenings from 6:30 p.m. to 7:15 p.m. and on Sunday mornings from 10:00 a.m. to 10:30 a.m.

The Court has considered the parties’ and the AFCs’ arguments and positions as stated in their written submissions and during the September 22 telephone conference. Upon due consideration and as stated during that conference,

IT IS HEREBY ORDERED that Petitioner’s letter motion (ECF No. 261) is granted in part and denied in part, as follows:

1. The parties shall make good faith efforts to continue to adhere to the preexisting schedule of Zoom calls on Wednesday evenings from 6:30 p.m. to 7:15 p.m. and on Sunday mornings from 10:00 a.m. to 10:30 a.m. (New York time).

2. To the extent that Petitioner or the Children are unable to attend the regularly scheduled visitation, the parties shall make best efforts to advise the relevant other parties or their counsel of the conflict in advance.

3. Petitioner’s motion is denied in all other respects.

4. This order shall continue in effect until the Second Circuit issues its mandate or until further order of this Court.

The Clerk of the Court is respectfully directed to close the motion at Docket No. 261.

SO ORDERED.

Dated: New York, New York  
October 2, 2023

  
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J. PAUL OETKEN  
United States District Judge